

# Greenberg Traurig

December 20, 2006

The Honorable Joseph J. Farnan, Jr.  
 United States District Court  
 District of Delaware  
 844 King Street  
 Wilmington, DE 19801

**Re:** *Magten Asset Management Corp. and Law Debenture Trust Co. v. NorthWestern Corp.; C.A. No. 04-1494-JJF;*  
*Magten Asset Management Corp. v. Mike J. Hanson and Ernie J. Kindt; C.A. No. 05-0499-JJF; and*  
*Magten Asset Management Corp. v. Paul Hastings Janofsky & Walker, LLP C.A. No. 04-1256-JJF.*

Dear Judge Farnan:

We are in receipt of Ms. Dubé's letter to you of December 19, 2006, in the above referenced actions, as well her letter to Mr. James of like date. While plaintiffs attempt to create an issue regarding the appointment of a Special Master, we note that defendant NorthWestern Corp. has not opposed, and does not oppose, the appointment of a Special Master in these cases.

The issue was raised during a meet and confer telephone conference with counsel for plaintiffs on November 20, 2006. At that time, we noted that Your Honor's Rule 16 Scheduling Order of November 3, 2006 states, in paragraph 3(g), that "Any discovery dispute shall be submitted to the Court . . . ." and that therefore it was unclear whether the Court intends to appoint a Special Master in these actions. We also raised the issue of apportionment of the costs associated with the appointment of a Special Master and made clear that we needed agreement that the plaintiffs would bear half of these expenses. These discussions went no further because at that time we understood that plaintiffs' counsel undertook to contact the Court to resolve the ambiguity created by the Order. Apparently counsel never did so.

We intend to respond to plaintiffs' Rule 37 Motion, which is entirely without merit, in due course.

Respectfully submitted,

Victoria W. Counihan (No. 3488)

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